

Schedule 15
(Part 55)
(Section 55.4)

Board Decision or Determination

Form B

attach applicable Forms A, if available

Pricing Model (Mainstream) Formula Decision 2017

1. Date(s) of this decision: April 3, 2017 (rescinded April 24, 2017)

April 24, 2017

Reviewed May 26, 2017

2. Members of Board present for decision:

R. Smith, DA Janzen, A. Johnston, R. Nickel and R. Payne

3. What sources of information did the Board consider in coming to its decision?

- Form A - Application for Decision or Determination
- Board Staff's Briefing Note
- Applicant's oral submissions
- Board's Orders (give reference numbers, if applicable):
Schedule 19 – Pricing Model
- Other (explain):

- May 18, 2016 FIRB letter re: Chicken Industry Pricing - -- Episode III".
- May 18, 2016 BCCMB letter re: your correspondence dated March 18, 2016 entitled "Chicken Industry Pricing – Episode III".

- June 20, 2016 BCCMB letter to PPPABC, BCCGA, PPAC and other BC processors re: BC Formula for the Pricing of Live Mainstream Chicken.
- November 1, 2016 BCCMB letter to PPPABC and BCCGA re: pricing review submissions.
- December 16, 2016 BCCMB letter to Chicken Farmers of Ontario re: request for information on behalf of Don Ference.
- January 11, 2017 BCCMB Industry Communique re: Topic – BC mainstream live chicken pricing review.
- January 16, 2017 letter from R. Horel of CPEPC to John Les, NAASA re: changes in live pricing levels Between Provinces Impact Processor Competitiveness.
- January 24, 2017 response letter from J. Les of NAASA to R. Horel of CPEPC re letter of January 16, 2017.
- February 2, 2017 letter of response from CFO to BCCMB
- February 10, 2017 BCCMB memo re: special meeting of PPAC Feb 21/17 1:30 p.m.
- February 16, 2017 email to PPAC from B. Vanderspek re: draft report entitled Update of Economic Analysis to Develop a Pricing Model for Live BC Grown Chicken – dated February 14th to be reviewed at PPAC meeting February 21/17 at BCCMB offices.
- Feb 23, 2017 -- Notes from joint BCCMB/PPPABC meeting.
- February 24, 2017 BCCMB letter to PPAC.
- April 10, 2017 letter to industry explaining new pricing formula that was to be used for A-143.
- April 13, 2017 letter to all BC chicken growers, processors and hatcheries re: mainstream price for A-143 set using “old formula” & order #134 dated April 13, 2017.
- May 29, 2017 memo to industry and Pricing Order #135 for A-144 using new formula.

- Economic Analysis to Develop a Pricing Model for Live BC Grown Chicken – May 8, 2009 & Executive Summary.
- British Columbia Chicken Marketing Board Pricing Model for Live BC Grown Chicken – May 26, 2009.
- BCFIRB Supervisory Decision – Pricing related recommendations – June 9, 2010.
- July 13, 2010 BCCMB Minutes re: suggestions for deliberating catching models.
- August 31, 2010 BCCMB Minutes re: catching

- March 17, 2017 email to BCCMB re: meeting with BCBHEC March 30th to discuss pricing decision of BCCMB.

- BCCGA Submission
 - Oct 17, 2016 letter.
 - BC Formula for the Pricing of Live Mainstream Chicken – BCCGA submission October 17, 2016.
 - Appendices 1-17.
 - Feb 2017 letter from BCCGA enclosing letters of support from grower members:
 - BCCGA Briefing note – BC Chicken Pricing – February 2017.
 - Loren and Corinne Taves.

- Elsie Lapinsky – February 3, 2017.
 - Whitta Farms Ltd. – February 12, 2017.
 - Chris Kloot – January 18, 2017.
 - Sophia Poultry.
 - Blue Chicks Farm Inc. – January 30, 2017.
 - Robert Guilker – January 23, 2017.
 - H&R Poultry.
 - Pat Creedon – February 13, 2017.
 - January 9, 2017 BCCGA analysis of PPPABC Submission.
- PPPABC Submission:
 - December 8, 2016 letter.
 - Economic and Cost Analysis of the BC Mainstream Chicken Broiler Industry – November 2016 – PWC.
 - BC Live Pricing Review submission by PPPABC dated December 8, 2016.
 - February 14, 2017 letter & newspaper article dated February 2017 from Country Life in BC.
- January 12, 2017 Notes on meeting between Processor Group at JD Sweid plant in Langley.
- January 19, 2017 email from C. Rickson to B. Shier re: arranging meeting between BCCMB and PPPABC.
- February 21, 2017 email from K. Landon to PPAC re: PPAC meeting March 1/17 to discuss BCCMB determination & FWD: Port Alberni room map
- Hard copies of Pricing Formula for Live BC Grown Chicken – March 1, 2017 were handed out at March 1st PPAC meeting at Sheraton Wall Centre in Vancouver.
- April 6, 2017 email to
- Ference & Company Submissions:
 - Workplan:
 - December 20, 2016 email from D. Ference to B. Shier re: information request.
 - December 20, 2016 email from B. Shier to B. Vanderspek re: D. Ference information request.
 - December 23, 2016 email from D. Ference to B. Shier re: information request.
 - Processor questionnaire – Information required from Each Major Chicken Processors in BC.
 - Information requirements - Confidentiality Agreement.
 - Appendix 1 – confidential information questionnaire.
 - Update of Economic Analysis to Develop a Pricing Model for Live BC Grown Chicken – February 8, 2017.

- Update of Economic Analysis to Develop a Pricing Model for Live BC Grown Chicken – February 14, 2017.
- Pricing Options for Live BC Grown Chicken – dated February 14, 2017.
- Potential Modifications to COP Model – dated February 17, 2017.
- Pricing Options for Live BC Grown Chicken – dated February 20, 2017.
- Pricing Options for Live BC Grown Chicken – dated February 21, 2017.
- Pricing Options for Live BC Grown Chicken – dated February 21, 2017 v2.
- Feed costs in COP spreadsheet.
- Pricing Formula for Live BC Grown Chicken – dated February 27, 2017.
- February 28, 2017 email from D. Ference to R. Smith re: proposed changes to Feb 27th presentation.
- Pricing Formula for Live BC Grown Chicken – dated February 28, 2017.
- Feb 28, 2017 email from D. Ference to B. Vanderspek re: revised version of presentation with BCCMB logo & Pricing Formula for Live BC Grown Chicken dated March 1, 2017. THIS IS THE VERSION THAT WAS PRESENTED TO THE PPAC ON MARCH 1ST. Hard copies were circulated at PPAC meeting March 1, 2017.
- March 2, 2017 email from D. Ference to B. Vanderspek re: in response to request to additional data arising from March 1st PPAC meeting. The request was for chick and feed differential data for periods A-129 to A-142.
- March 6, 2017 email from K. Landon to PPAC re: attached data on feed and chick differentials for A-129 to A-142 & spreadsheet.
- March 14, 2017 email from D. Ference to B. Burden re: timing of pricing calculations which was forwarded to BCCMB March 16, 2017 by B. Vanderspek.
- March 16, 2017 email from D. Ference to B. Vanderspek re: timing of price calculations based on discussions with B. Burden.
- March 20, 2017 pricing calculations summary from D. Ference.
- March 24, 2017 email from B. Vanderspek to BCCMB re: pricing calculations summary from D. Ference and additional charts/graphs and hypothetical data by BCCMB staff (C. Rickson).
- March 27, 2017 letter of rebuttal of PPPABC March 23rd letter regarding FCO report to BCCMB.
- March 27, 2017 letter of comment on PPPABC letter regarding input on Proposed BC Live Pricing Formula on March 24, 2017.
- April 18, 2017 email from D. Ference re: additional analysis of most appropriate weight category.
- Serecon Consulting Submissions
 - January 6, 2016 email from D. Ference to B. Burden re: request for additional information re BC COP.
 - January 10, 2016 email from B. Vanderspek to B. Burden re: request for comments on BCCGA analysis of PPPABC submission.
 - January 11, 2016 email from B. Burden to B. Vanderspek – response to BCCGA analysis of PPABC submission.

- January 11, 2016 email from B. Burden to D. Ference re: additional information re: BC COP.
- PPAC
 - February 6, 2017 – PPAC received update on pricing model from ED.
 - February 21, 2017 hand written notes of C. Rickson re: Q&A session by PPAC.
 - March 1, 2017 – notes of PPAC meeting as prepared by the Chair.
 - March 16, 2017 email from B. Vanderspek to PPAC re: Pricing - reminder to provide input to the Board by March 24th.
 - March 23, 2017 PPPABC letter entitled “Summary Observations of FCO Report to BCCMB – as a response to Feb 21st PPAC presentation by D. Ference at PPAC meeting.
 - March 24, 2017 PPPABC letter entitled “Input on Proposed BC Live Pricing formula” - to PPAC Chair K. Landon in response to March 1st BCCMB Presentation at PPAC meeting (Pricing Formula for Live BC Grown Chicken).
 - March 24, 2017 BCCGA letter re: pricing review --response to March 1st BCCMB Presentation (Pricing Formula for Live BC Grown Chicken). BCCGA request 100%
 - April 6, 2017 email from B. Vanderspek to BCCMB re: consultation of draft formula with FIRB and BCBHEC & April 7, 2017 draft decision to PPAC & April 6, 2017 email from B. Vanderspek re: verbal response from FIRB
 - April 7, 2017 letter to PPAC re: mainstream chicken live pricing formula.
 - April 12, 2017 PPAC Minutes
 - May 7, 2017 email and BCCMB presentation to PPAC for meeting May 10th. re: Pricing Formula for Live BC Grown Chicken dated May 10, 2017.
 - May 10, 2017 draft PPAC Minutes
 - May 17, 2017 email to PPAC re: B. Burden information arising from PPAC meeting of May 10th.
 - May 19, 2017 email to PPAC re: D. Ference information arising from PPAC meeting May 10th respecting Ontario Feed Costs.
 - May 19, 2017 memorandum to PPPABC and BCCGA from BCCMB Chair re: notice of new formula and last chance to make joint recommendation to the Board. Deadline May 25th end of business.
 - May 15, 2017 email from Chair re: PPAC request for extension to deadline.
 - May 26, 2017 email from B. Shier to R. Smith re: BC Pricing – PPPABC unable to come to an agreement with BCCGA.

4. What is the Board's decision?

The Board has made the decision to implement a new pricing formula based on:

Ontario Posted Price based on the historical weight category of 1.84 to 1.95 kg
(as agreed by the PPAC on March 4, 2015)

Plus

50% of the difference in feed costs per kilogram of live chicken between BC and Ontario (based on a 6 period rolling average)

Plus

50% of the difference in chick costs per kilogram of live chicken between BC and Ontario (based on a 6 period rolling average)

Plus

3.5 cents for catching costs. Changes to the cost of catching will be reflected in the pricing formula and must be submitted to the Board for approval prior to the beginning of a pricing period.

The pricing formula will be evaluated by the Board on an annual basis. This new formula will be used beginning in period A-144. Shipments for this period begin on June 11, 2017.

5. Why did the Board come to this decision?

The BCCMB is committed to the concept of principle based regulation (PBR) and outcome based decision making through SAFETI (Strategic Accountable, Fair, Effective, Transparent, Inclusive) initiatives as directed by FIRB. These initiatives support good governance in the regulated marketing sector.

SAFETI has been applied at all stages of the decision making process: information gathering, analysis of risks and opportunities, options development and evaluation through to the final decision of the Board.

The Board struggled with the concept of "fair return to growers" and "keep processors competitive" as both concepts are somewhat subjective. The documents provided by the parties did not provide clear definitions and the data was, in some cases incomplete. Instead the Board focused on what the two sides could agree to and what was "fact based, and transparent, with information readily available."

The processors and growers agreed that pricing needed to be based on the Ontario live price and some recognition of BC specific costs, and that chick and feed costs make up a largest components in any pricing model.

The advantages of the pricing formula are that it is fact based; the formula is based on feed and chick cost differences as stated in the BC COP and Ontario COP – both COP's are based on regular surveys of feed mills in each province. The rationale for including only portion of feed and chick costs differentials is that it is equitable.

A split of 50% each recognizes that the difference in chick and feed costs in BC and Ontario should be shared equally between processors and growers. As a feed deficient province, BC must import virtually all of its grain from other areas of North America resulting in high freight costs which must be borne by BC chicken growers and processors. In the view of the Board, there are unique costs to producing chicken in BC which must be considered. As has been stated many times, "there is a cost to being a chicken grower in BC." This applies equally to BC processors. The formula recognizes the need for BC chicken processors to be competitive with chicken processors in other parts of Canada and in particular Ontario as the largest chicken producing province; it recognizes the higher feed and chick costs of growers in BC; and encourages growers and processors to work together to minimize feed and chick cost differentials. The model is transparent and predictable, as it is based on Ontario and BC feed and chick costs which are readily available to both growers and processors. The model uses a six period rolling average to smooth out market shifts for feed and chick costs. The model uses a one period lag for BC chick pricing as the chicken price must be set before the chick price can be determined for the period. (BCCMB/BCBHEC pricing linkage).

As the formula will be evaluated annually, the percentage may change over time, as may all of the other components in the formula. The Board has stated the need to develop "guard rails" in consultation with the PPAC, but this option cannot be implemented until a COP is developed that is acceptable to both growers and processors. The modified COP could be used as guard rails to the pricing strategy, action may be triggered if BC live price deviates more than an agreed upon amount from a modified BC COP.

The Board recognizes that it would not be possible to include the total extent of differences in feed and chick costs between BC and Ontario as well as any other cost differences experienced by BC growers such as higher costs of land. Some of the operational advantages to Ontario processors versus BC processors are simply out of the control of the BCCMB or the BC chicken industry. An example of this would be the BC processor's lack of access to TRQ as compared to their counterparts in Central Canada.

The new pricing formula is a major shift from the previous BCFIRB mandated formula in that it does not use as a component the live prices in Alberta, Saskatchewan or Manitoba. The BCCMB agreed with the processors that the departure of the West from historic price differentials to Ontario were causing unintended consequences. The BCFIRB formula was not designed to

account for structural changes to the pricing regimes in the Prairie Provinces that did not always come with full transparency or rationale for those changes.

RATIONALE FOR DECISION BASED ON OUTCOME BASED PRINCIPLES

Strategic & Effective:

The Board has the authority to make orders it considers necessary or advisable to promote, control and regulate effectively the marketing of the regulated product, and to amend or revoke them, under 11(1)(q) of the Natural Products Marketing (BC) Act. The Act at 11(1)(k) gives the Board the authority to set the prices, maximum prices, minimum prices or both maximum and minimum price at which the regulated product or a grade or class of it may be bought or sold in British Columbia or that must be paid for a regulated product by a designated agency and to set different prices for different parts of British Columbia.

The BC Chicken Marketing Scheme (1961) grants the Board the power under 4.01(g) to fix the price or prices, maximum price or prices, minimum price or prices, or both maximum and minimum prices at which the live chickens over 2 days old that are regulated product, or any grade or class thereof, may be bought or sold in the Province, or that shall be paid for the regulated product by a designated agency, and may fix different prices for different parts of the Province. Further, 4.01(l) gives the Board the authority to make such orders, rules and regulations as are deemed by the Board necessary or advisable to promote, control and regulate effectively the production, transportation, packing storage or marketing of the regulated product and to amend or revoke the same.

Under the Chicken Scheme at 3.20 Pricing and Production Advisory Committee at section (3) it states the Board must consult with the committee and consider the committee's advice before the Board makes any decision relating to pricing or production.

The decision is in keeping with the Board's strategic priorities as illustrated in both the Board's old and new Strategic Plan (completed and adopted by the BCCMB in March 2017). The decision manages risk in a timely basis.

The process leading to the final decision was effective. The consultation process was extensive and involved many meetings with industry groups and individuals. The Board obtained independent analysis and was provided with a report on the materials received from the BCCGA and the PPPABC. The report was presented to the PPAC for comment, and the Board's consultants were available to answer questions and provide clarity. From that report, and all inputs received options were developed, analyzed and some discarded. The decision of the Board was discussed at a meeting the PPAC, and it became evident that the meeting participants required clarification and additional information to fully understand the Board's determination respecting the new formula. Additional materials were prepared in advance of a further PPAC meeting, to allow for a fulsome discussion of the mechanics of the formula as well as the methods, sources and timing of data collection.

There was sufficient, accurate information to make a decision that leads to an effective outcome. It will have a clearly defined regulatory outcome – to provide the chicken industry with a fact based, pricing formula that is simple, transparent and capable of providing long term predictability and stability.

During the consultation process, two of the key messages that were heard clearly by the Board were:

1. The growers needed recognition of the differences in the costs of feed and chick in growing a kilogram of chicken between Ontario and British Columbia.
2. The processors needed the live price to be tied to Ontario as the largest chicken producing province in Canada and a live price that will allow them to remain competitive in the Canadian marketplace.

The new pricing formula is effective as it recognizes the higher costs of feed and chicks in BC and accounts for that difference in equal shares between the growers and processors. In the view of the Board there are costs to being a grower in BC and as a quid pro quo there are costs to being a processor in BC.

Accountable

The Board is accountable for its decisions to the entire industry and must consider the impact of its decisions on other parties.

The Board is taking into account the interests of both growers and processors. Those who determine they are aggrieved by this decision may appeal to BCFIRB. Both growers and processors are well aware of their rights to appeal and the methodology to do so.

The BCCMB maintains its legitimacy and integrity through understanding and discharging its responsibilities (as per the NPMA, Provincial Policy, BCFIRB direction) and is accountable by providing reasons explaining the course of action to stakeholders within this Schedule 15.

Fair

The decision making process has ensured procedural fairness. All sides were consulted and their opinions heard. The Board has with this document provided a rationale illustrating sound marketing policy to amend the BCFIRB ordered pricing model which was predicated on a catching cost of 2.8 cents/kg live weight. The status quo of the weighted average of Ontario plus the Prairie Provinces plus a differential of 4.35 cents/kg live weight ensured

competitiveness with western Canada and Ontario, and did compensate BC for some higher costs, but did not reflect the total extent of higher feed costs and there was no factual basis for the 4.35 cents differential. Also catching costs are now at a level of approximately 3.5 cents/kg live weight.

The new pricing formula is effective as it recognizes the higher costs of feed and chicks in BC and accounts for that difference in equal shares between the growers and processors. In the view of the Board there are costs to being a grower in BC and as a quid pro quo there are costs to being a processor in BC. It would not be fair to expect either the growers or the processors to absorb the full share of the difference in the costs of the two main components in the production of live chicken.

Transparent

Pricing orders are transmitted to all mainstream growers and processors by email.

The decision making process is transparent. The processes, practices, procedures and reporting on the mandate are open and accessible to the people impacted by the decisions and operations of the Board. The submissions made by industry to the Board have all been posted on the Board's website (grower side only at the request of the BC Processors).

This Schedule 15 containing the Board's decision and rationale will be posted on the website. Further, an explanation will be included in the BCCMB Monthly Board report and will also provide a reference to the Schedule 15 on the website.

Inclusive

In his "Chicken Industry Pricing – Episode III" letter dated March 18, 2016 BCFIRB Chair John Les stated:

The fundamental premise behind how best to determine the price a grower receives for their chicken from a processor remains the same as it was in 1995 and in 2010. In summary, and as recorded in paragraph 23 of the June 9, 2010 BCFIRB decision:

All parties in this supervisory review agree that a workable pricing model must be consistent, predictable, transparent, and result in a live price that gives growers a reasonable return and allows processors to be competitive in the Canadian market. These same considerations apply to the BC broiler hatching egg sector.

In its June 2010 decision BCFIRB gave the Chicken Board flexibility for making changes to the current formula-based pricing model (paragraph 30): any long term changes to the pricing model will also require the Chicken Board to consult with PPAC. BCFIRB wishes to make it clear that if the Chicken Board decides as the first instance regulator that it

should undertake any initiative regarding the pricing model, the requirement to consult with PPAC remains.

Finally, as per BCFIRB's general supervisory expectations, the Chicken Board must demonstrate a thorough and substantiated use of principles-based regulation and SAFETI in arriving at any changes to the pricing model that clearly reflect "sound marketing policy". This would necessitate consultation with a broad range of stakeholders and consideration of inter-provincial and national implications

As per BCFIRB's March 18, 2016 instructions, appropriate interests were considered and consulted. The PPAC consists of representatives of chicken growers, processors and hatching egg producers. The BCCGA and PPPABC provided input as did some individual growers. The decision of the Board is in the public interest to provide continuity and stability respecting the live pricing of the regulated product.

Parties impacted by the decision were provided ample opportunity to comment. After the Board made its determination, it met with PPAC on March 1, 2017 and made a presentation. PPAC was then given time to provide comments and the opportunity to come to an agreement prior to the Board making a final decision on April 3, 2017 which was clarified on April 28, 2017.

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